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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,616	09/22/2003	Dean T. Lindsay	10002399-2	1176

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EXAMINER	
MASKULINSKI, MICHAEL C	

ART UNIT	PAPER NUMBER
2113	

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/667,616	LINDSAY ET AL.	
	Examiner	Art Unit	
	Michael C. Maskulinski	2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 April 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *9-17 and 21-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Final Office Action

Specification

1. In view of the recent amendment, the objection to the specification has been withdrawn.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 9-17 and 21-29 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,654,908 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following.

Referring to claim 9, claim 8 of U.S. Patent 6,654,908 B1 discloses a method of accessing data, comprising the steps of: receiving first data; incrementing a first register containing a count value in response to said first data to provide an incremented count value; storing, in response to a first condition of a flag, (i) said incremented count value in a second register and (ii) said first data in a memory; setting said flag to a second condition in response to said first data; reading, on plural occasions, different portions of said first data from said memory; comparing values stored in said second register prior to and after said reading step and, in response, selectively processing said first data stored in said memory; and in response to said comparing step resetting said flag back to said first condition only if the value read from said second register for use in comparing step matches the value stored in said second register. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 8 of U.S. Patent 6,654,908 B1 includes all of the limitations in claim 9 of the instant application. With regard to the additional limitations in claim 8 of U.S. Patent 6,654,908 B1, which are not included in claim 9 of the instant application, the omission of these limitations in claim 9 of the instant application is an obvious expedient since the remaining limitations in claim 8 of U.S. Patent 6,654,908 B1 perform the same function as the limitations in claims 9 and 15 of the instant application (*In re Karlson*, 136 USPQ 184 (CCPA 1963)).

Referring to claim 10, claim 9 of U.S. Patent 6,654,908 B1 discloses a step of setting said flag to a second condition in response to said first data.

Referring to claim 11, claim 10 of U.S. Patent 6,654,908 B1 discloses the steps of: reading a first data value stored in said second register; reading said first data from said memory; reading a second data value stored in said second register and comparing said first and second data values.

Referring to claim 12, claim 11 of U.S. Patent 6,654,908 B1 discloses a step of processing said first data in response to a result of said comparing step.

Referring to claim 13, claim 12 of U.S. Patent 6,654,908 B1 discloses the step of resetting a condition of said flag only if said second data value matches the first data value.

Referring to claim 14, claim 13 of U.S. Patent 6,654,908 B1 discloses a plurality of steps of reading portions of said first data from said memory and steps of comparing values read from said second register and, in response, selectively processing said first data.

Referring to claim 15, claim 8 of U.S. Patent 6,654,908 B1 discloses setting said flag to a second condition in response to said first data; reading, on plural occasions, different portions of said first data from said memory; comparing values stored in said second register prior to and after said reading step and, in response, selectively processing said first data stored in said memory; and in response to said comparing step resetting said flag back to said first condition only if the value read from said second register for use in comparing step matches the value stored in said second register.

Referring to claim 16, claim 14 of U.S. Patent 6,654,908 B1 discloses the steps of: detecting a non-equivalence of said values and, in response, inhibiting a processing of said first data stored in said memory.

Referring to claim 17, claim 15 of U.S. Patent 6,654,908 B1 discloses said first data includes error information and said count value includes a number of error events detected.

Referring to claim 21, claim 1 of U.S. Patent 6,654,908 B1 discloses a method, comprising the steps of: providing a token which can be atomically read and which uniquely identifies a log entry which cannot be atomically read and evaluated for change; and clearing said log entry using said token as a key; wherein said token includes an indication of a status of said log entry. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of U.S. Patent 6,654,908 B1 includes all of the limitations in claim 21 of the instant application. With regard to the additional limitations in claim 1 of U.S. Patent 6,654,908 B1, which are not included in claim 21 of the instant application, the omission of these limitations in claim 21 of the instant application is an obvious expedient since the remaining limitations in claim 1 of U.S. Patent 6,654,908 B1 perform the same function as the limitations in claim 21 of the instant application (*In re Karlson*, 136 USPQ 184 (CCPA 1963)).

Referring to claim 22, claim 2 of U.S. Patent 6,654,908 B1 discloses storing error data as said log entry and updating said token to correspond to said error data.

Referring to claim 23, claim 3 of U.S. Patent 6,654,908 B1 discloses reading said error data using said token to validate said error data.

Referring to claim 24, claim 4 of U.S. Patent 6,654,908 B1 discloses wherein said token includes an indication of an ordinality of said log entry.

Referring to claim 25, claim 1 of U.S. Patent 6,654,908 B1 discloses wherein said token includes an indication of a status of said error log entry.

Referring to claim 26, claim 5 of U.S. Patent 6,654,908 B1 discloses ensuring only valid copies of error data are obtained corresponding to said log entry and inhibiting clearing of unrecorded data corresponding to said log entry.

Referring to claim 27, claim 6 of U.S. Patent 6,654,908 B1 discloses a step of forming a digital signature of said log entry to create said token.

Referring to claim 28, claim 7 of U.S. Patent 6,654,908 B1 discloses a step of hashing said log entry to create said token.

Claim Objections

4. In view of the recent amendment, the objection to claim 29 has been withdrawn.

Claim Rejections - 35 USC § 112

1. In view of the recent amendment and arguments the rejection of claims 23 and 13 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, has been withdrawn.

Allowable Subject Matter

5. Claims 9-17 and 21-29 are allowed.

6. The following is a statement of reasons for the indication of allowable subject matter.

Referring to claim 9, although the prior art discloses storing a an incremented count value in a second register in response to a write request, the prior art does not teach or reasonably suggest storing, in response to a first condition of a flag, (i) said incremented count value in a second register and (ii) said first data in a memory.

Referring to claim 21, the prior art does not teach or reasonably suggest clearing said error log entry using said token as a key.

Referring to claim 29, the prior art does not teach or reasonably suggest a tag register, which stores the value of the count register if the status register is clear.

Response to Arguments

7. Applicant's arguments, filed April 25, 2006, with respect to claims 9 and 29 have been fully considered and are persuasive. The rejection of claims 9-14, 17, and 29 has been withdrawn.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Maskulinski whose telephone number is (571) 272-3649. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W. Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MM

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